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Report of the Special Rapporteur on minority issues on her mission to Brazil

Note by the Secretariat

The Special Rapporteur on minority issues, Rita Izsák, undertook an official visit to Brazil from 14 to 24 September 2015.

Brazil has developed a plethora of strong institutions, programmes and policy initiatives to address the human rights of minorities. These include mechanisms to combat racism, affirmative action programmes and other anti-discrimination initiatives. The Special Rapporteur observed, nevertheless, that minorities in Brazil, most notably Afro-Brazilians, who self-identify as a political minority despite being a demographic majority, continue to face multiple impediments to the full enjoyment of their human rights. Following a long history of slavery and oppression, Afro-Brazilians experience racial discrimination and face severe disadvantage compared with other Brazilians: they are subject to high levels of violence, including violence perpetrated by the State; they face impunity for crimes committed against them; experience lower levels of socioeconomic development; are subjected to extremely high rates of incarceration; and Afro-Brazilian women and girls remain vulnerable to abuse. Moreover, despite affirmative action policies, Afro-Brazilians remain largely excluded from positions of power and influence.

In the report the situation of particular minorities, including Quilombo and other traditional communities, is also considered, together with that of Brazilian Roma (*Cigano*). The Special Rapporteur also observes that, although there is generally a high degree of religious tolerance in Brazil, one exception is the situation of Afro-Brazilian religions, which are facing an increasing number of incidents of violence, intimidation and discrimination.

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* Circulated in the language of submission only.

I. Introduction

1. The United Nations Special Rapporteur on minority issues, Rita Izsák, conducted an official visit to Brazil from 14 to 24 September 2015. In Brasilia, she met with officials of the Ministry of Foreign Affairs, the Ministries of Justice, Education and Culture, the Secretariats for Human Rights, Policies for Women and Racial Equality, the National Institute for Colonization and Agrarian Reform, the Office of the Federal Prosecutor, the Federal Supreme Court, and the Federal Attorney General's Office for Citizens' Rights. She also consulted with the Resident Coordinator and representatives of United Nations agencies, as well as a wide range of representatives of civil society and social movements.

2. In the states of Rio de Janeiro, São Paulo and Bahia, the Special Rapporteur met with authorities working on issues of minority rights and with members of marginalized communities. This included visits to the Santa Marta *favela* (slum) in Rio de Janeiro, and the *periferia* Brasilandia on the outskirts of São Paulo. She also visited two Quilombos; Ivaporunduva (El Dorado municipality, São Paulo state) and Pitanga Dos Palmares (Bahia), and met with representatives of other Quilombos. She also visited a Roma (*Cigano*) neighbourhood in the municipality of Simões Filho, Bahia.

3. She consulted with various religious minorities, including representatives of the Muslim community, and religious organizations. She also met with Afro-Brazilian religious leaders, and visited a *Candomblé terreiro* (Afro-religious temple) in Salvador.

4. At the conclusion of her visit, the Special Rapporteur convened a one-day workshop on the situation of Roma in the Americas, which brought together representatives of Roma communities from Argentina, Brazil, Canada, Chile, Colombia, Ecuador and Peru. The workshop was a follow-up to the Special Rapporteur's 2015 comprehensive study on the human rights situation of Roma worldwide (A/HRC/29/24).

5. The Special Rapporteur expresses her appreciation to the Government of Brazil for the support provided in the organization and facilitation of the visit. She was pleased to undertake the visit in order to gain a better understanding of the unique minority rights protection schemes in Brazil, such as its disaggregated data collection and affirmative action policies, and will continue to explore how these positive practices may be translated to other countries and regions.

6. The Special Rapporteur also thanks the United Nations and the various minority communities, individuals, civil society organizations and social movements which shared their stories with her, as well as providing indispensable assistance in the coordination of the visit.

II. Who are the minorities in Brazil?

7. With a population of more than 204 million people, Brazil is a highly diverse society, with countless minority groups which migrated there on account of a wide range of factors, including colonialism, slavery and targeted migration policies.

8. Originally inhabited by indigenous peoples, Portuguese colonization in the sixteenth century saw the first mass influx of Europeans into the territory. The colony quickly entered the slave trade, and soon became the largest importer of African slaves in the Americas. It is estimated that up to 5 million Africans were brought to Brazil as slaves, although many did not survive the treacherous sea crossing. Slavery quickly became central to the colonial economy, and gained particular importance in the mining and sugar cane industries, which fast became entirely dependent on slave labour.

9. Brazil was the last nation in the Western Hemisphere to abolish slavery, in 1888. Yet the deep social divide created did not dissipate with abolition. On the contrary, as political and economic power remained concentrated in the hands of the white landowners, Afro-Brazilians had limited means or opportunity to establish their homes or develop livelihoods. This led to the development of impoverished *favelas*, which further entrenched their disadvantage and marginalization.

10. The early twentieth century saw the mass migration to Brazil of approximately 5.2 million Western Europeans, facilitated by immigration policies of "*branqueamiento*" (whitening), which were designed to boost the white population and "improve" the racial balance of the country. Brazil now has sizeable minority communities of Western-European heritage. During this period Brazil also facilitated other migration schemes, including from Lebanon and Japan.

11. As a result of this history, twentieth-century Brazil became a place of ethnic, racial and religious diversity. Owing to widespread inter-ethnic relationships, as well as the absence of legalized segregation, a political discourse emerged labelling Brazil as a "racial democracy" – a theory which posited that all groups in Brazil experienced conditions of juridical and social equality. Yet while it is true that some groups, notably those who migrated to Brazil as part of the *branqueamiento* agenda, were able to enjoy social and economic success, others, most notably Afro-Brazilians, remained severely marginalized owing to historically rooted patterns of discrimination, as well as ongoing structural discrimination.

12. Since the 1940s, scholars, activists, historians and civil society have exposed the inequalities between the white and Afro-Brazilian populations, and have debunked the racial democracy discourse as a myth. Nevertheless, the pervasive way in which it permeated the Brazilian psyche has made it difficult for Afro-Brazilians to advocate on issues of racism and discrimination. The racial democracy myth has contributed to false assumptions that the marginalized situation of Afro-Brazilians is attributable to factors of class or wealth, rather than racial factors or institutional discrimination.

13. Approximately 4.5 million people belong to so-called "traditional peoples and communities" in Brazil, and occupy approximately 25 per cent of the national territory. Decree 6040 of 2007 defines traditional communities as culturally differentiated groups which recognize themselves as such, which have their own forms of social organization, which occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic continuity, using knowledge, innovations and practices generated and passed on through tradition (item I, art. 3). Traditional communities include many Afro-Brazilian communities as well as those of indigenous descent. They also include Quilombos, communities established by escaped African slaves in diverse and often remote and isolated regions of Brazil, as well as a range of other groups.[1].

14. Brazil also has a notable Roma (*Cigano*) population. Not a homogenous group, the Roma population of Brazil is made up of distinctly different groups and subgroups which differ in religion, mother tongue, cultural and traditional practices and lifestyles. Estimates indicate that more than 500,000 Roma currently reside in Brazil, making it the largest Roma population in the Americas.

15. In terms of religious diversity, while the country is predominately Roman Catholic, the religious landscape of Brazil is undergoing changes. Between 2000 and 2010, the

[1] See http://basilio.fundaj.gov.br/pesquisaescolar_en/index.php?option=com_content&view=article&id=1399:traditional-peoples-and-communities&catid=54:letter-t&Itemid=1.

Roman Catholic population of Brazil decreased from 74 per cent to 65 per cent, while the percentage of Evangelicals has been rising. There are also a number of minority religions in Brazil, including traditional Afro-religions. In addition, Brazil is home to various indigenous faiths and spiritualities, as well as sizeable Buddhist, Muslim and Jewish communities, among others.

III. Methodology

16. The Special Rapporteur focuses on minority groups whose non-dominant status requires measures to allow them to exercise their rights to the fullest. The Special Rapporteur also observes that, in accordance with general comment No. 23 (1994) of the Human Rights Committee on article 27 (rights of minorities), the existence of minorities is neither dependent on a decision by the State alone nor limited to officially recognized minorities, but should be based on objective and subjective criteria and the principle of self-identification.

17. Thus despite their numerical majority, in view of their non-dominant situation, widespread marginalization and self-identification as a political minority, one focus of the Special Rapporteur's visit to Brazil was the situation of Afro-Brazilians, including Quilombo and other traditional communities, as well as *Terreiro* Afro-religious communities. The Special Rapporteur therefore views her visit as a follow-up to the visit to Brazil in 2014 of the Working Group of Experts on People of African Descent (see A/HRC/27/68/Add.1).

18. The Special Rapporteur has also focused on the situation of the Roma (*Ciganos)*, who, despite being present in Brazil for many centuries have remained a largely invisible minority.

19. The Special Rapporteur further observed that Brazilian society is currently experiencing demographic changes. As it gains economic strength, Brazil is increasingly becoming a country of destination for migrants, as well as refugees and asylum seekers, who are often in vulnerable situations in society. These communities often lack adequate access to social services. In particular, the Special Rapporteur learned of large communities of Bolivian migrant workers, often employed in low-paid and even exploitative jobs, as well as the recent migration of considerable numbers of Haitians, some of whom have been victims of violent attacks, apparently on account of their race and nationality. There are also reports of abuses against other new migrant communities, in particular those from Africa, who seem to be particularly targeted on account of their racial identity. While it was beyond the scope of the visit to fully analyse the situation of these migrant communities, she observes that, as these groups begin and to identify as Brazilian minorities, Brazil must remain attentive to their rights, in accordance with the Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities (A/RES/47/135), and remain vigilant against discrimination against these communities.

20. Finally, although indigenous peoples are an important minority in Brazil, facing significant human rights challenges, in view of the specific international legal framework developed for the rights of indigenous peoples (see A/HRC/12/34/Add.2), the visit of the Special Rapporteur did not focus on the situation of indigenous peoples.

IV. Minority rights: legal and institutional framework

A. International legal framework

21. Brazil has ratified the core United Nations human rights instruments and some of the optional protocols thereto, which contain numerous legal obligations regarding the rights of minorities. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.

22. Brazil has also ratified International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) which was implemented into domestic law through Presidential Decree 5.051 of 2004. Notably, the lands protected under Convention No. 169 include all lands used for traditional activities by traditional groups, and the Convention is therefore applicable to all traditional communities. Convention No. 169 further provides that governments should: (a) consult the peoples concerned through adequate procedures and in particular through their representative institutions, whenever legislative and administrative measures are passed that could affect them directly (art. 6). The Special Rapporteur notes with regret that, in June 2014, Congress representatives of the agribusiness and industrial sectors tried to cancel Brazilian commitment to Convention No. 169.

23. Brazil is also party to the Inter-American Convention on Human Rights and the additional protocol thereto in the area of economic, social and cultural rights, both of which have important implications for minorities. Brazil has also supported the establishment of the Organization of American States Special Rapporteur on the Rights of Persons of African Descent and against Racial discrimination, and signed the Inter-American Conventions against Racism, Racial Discrimination and Related Forms of Intolerance (A-68) and against All Forms of Discrimination and Intolerance (A-69). The Conventions, which still require approval and ratification by Congress, require the establishment of a committee for the prevention and elimination of racism, racial discrimination and all forms of discrimination and intolerance, which will strengthen efforts to combat racism in Brazil and the region.

24. Importantly, constitutional amendment No. 45 of 2004 confers on human rights treaties the status of constitutional amendments. Human rights treaties ratified prior to the amendment are considered to be supralegal provisions and the constitution must be interpreted in conformity therewith.

B. National legal framework

25. Brazil is a federal republic with 26 states, a federal district and 5,507 municipalities. The states have powers to adopt their own constitutions and laws; their autonomy, however, is limited by the federal constitution, which specifically protects human rights.

26. It is set forth in article 3 of the constitution that the fundamental objectives thereof include the reduction of social and regional inequalities and the promotion of the well-being of all, "without prejudice as to origin, race, sex, colour, age and any other forms of discrimination". The fundamental right of equality before the law is established under article 5, together with that of freedom of conscience and of belief and the protection of places of worship (sect. VI); the prohibition of discrimination by reason of religious belief (sect. VIII); the criminalization of acts of racism (sect. XLII) and the outlawing of discrimination against fundamental rights and liberties (sect. XLI).

27. At the federal level, Brazil has also adopted a series of dedicated laws on racial inequality. Law 7716 of 1989, as modified by Law 9459 of 1997, prohibits racism and discrimination based on ethnicity, religion or nationality, and criminalizes racial discrimination and discrimination based on ethnicity, skin colour, religion and nationality. The Statute on Racial Equality (Law 12288 of 2010) also prohibits racism and discrimination as well as guaranteeing the rights to non-discrimination and racial equality in other fields including health, culture, housing, work, education and freedom of belief and conscience. Several states have passed their own racial equality legislation. For example, the State of Bahia has adopted a statute on fighting racism and religious intolerance (Law 13.182 of 2014).

28. Law 10369 of 2003 amended the General Education Law and makes the teaching of the history and culture of Africa and Afro-Brazilians at the basic and secondary levels obligatory. Under Article 33 of the Law of Guidelines and Bases of Education, religious teaching is optional and schools must respect the religious diversity of Brazil and not allow proselytism.

29. Decree 6040 of 2007 recognizes the existence of distinct traditional peoples and communities, and establishes that their rights must be guaranteed and respected. The Decree also established the National Policy for the Sustainable Development of Traditional Peoples and Communities, whose main objective is to promote the sustainable development of traditional peoples and communities, with emphasis on the recognition, strengthening and guarantee of their territorial, social, environmental, economic and cultural rights, with respect and appreciation of their identity, their organization and their institutions.

30. A specific legislative framework has been established for Quilombo communities. The 1988 constitution, through its articles 215 and 216, provides that Quilombo lands are to be considered Afro-Brazilian Cultural Territory and should be protected as a national public asset. In addition, article 68 of the Temporary Constitutional Provisions Act, enabling decree 4887 of 2003, provides for further legal recognition of the rights of Quilombo communities to the demarcation of their lands and territories.

31. While general prohibitions against discrimination remain relevant for Roma communities, to date there has been no other legislation concerning discrimination against Roma specifically. However, there is a Roma Bill currently pending before the Senate, which, if adopted, will provide important legal recognition of the rights of Brazilian Roma as a minority group. The Ministry of Education has also developed curriculum guidelines for travelling populations, which may be relevant for Roma who travel (resolution CNE/CED No. 3 of 2012). Administrative instruction No. 940 of 2011 of the Ministry of Health, which regulates the system of national health cards, is also pertinent for Roma, as it affirms that it is not necessary to have a permanent address, thereby ensuring that nomadic Roma communities are not excluded from the system. Finally, Presidential Decree of 25 May 2006 established the National Day of Brazilian *Cigano*, an important symbolic step recognizing Roma as an integral part of Brazilian society.

C. Institutional framework

32. There are some positive institutional initiatives at the federal and state levels that advance the rights of minority communities. Of particular note is the establishment of federal secretariats with the same status as ministries on issues relevant to minority rights, including the Secretariat for Policies for the Promotion of Racial Equality, the Special Secretariat for Human Rights and the Secretariat for Policies Involving Women's Rights. In October 2015, these secretariats were merged into one, larger, Ministry of Women, Racial Equality and Human Rights.

33. The Racial Equality Act also established the National System for the Promotion of Racial Equality (*Sistema Nacional de Promoção da Igualdade Racial*), a coordination mechanism which aims to promote the implementation of the set of policies and services regarding racial discrimination across a range of ministries. Another mechanism is the National Council for Racial Equality Policies (*Conselho Nacional de Promoção da Igualdade Racial*). A collegiate consultative body, the main mission of the Council is to draw up racial equality promotion policies. Chaired by the National System, the Council is composed of 22 agencies of the Federal Government, 19 civil society organizations and 3 experts.

34. The Palmares Foundation, a public institution under the Ministry of Culture (Law 7.668 of 1988), is mandated to formulate, promote and implement programmes and projects which recognize, preserve and promote the contribution of African cultures to Brazilian society. It plays a key role in raising awareness about religious intolerance through seminars and by providing financial and technical support.

35. The National Commission for the Sustainable Development of Traditional Communities, established by decree on 27 December 2004 and amended by decree on 13 July 2006, which comes under the Ministry of the Environment, is responsible for coordinating and monitoring the implementation of the National Policy for the Sustainable Development of Traditional Peoples and Communities. The Commission is composed of 15 government representatives and 15 civil society representatives.

36. Quilombos have their own self-representative body, the National Coordination Body of Rural Black Quilombo Communities. Although not yet representing all Quilombos, the Coordination Body operates through State Coordinators which report to the national body.

37. Furthermore, at the national level, a number of newer mechanisms have been established to better address minority rights. These include a human rights hotline to report human rights violations and seek redress, and a new national police ombudsman, as well as a National Forum for Police Ombudsman of each state. These mechanisms are still nascent, and should be strengthened and supported so that they can effectively and meaningfully carry out their mandate.

38. States have also developed important initiatives in the field of minority rights. Some have established their own secretariats for human rights, with specific departments working on discrimination and racial equality. In São Paolo, for example, the Municipal Secretariat for Human Rights and Citizenship, created in January 2013, is in the process of developing its own ombudsman. Bahia has also developed its own Public Ombudsman. Elected by civil society organizations, the Bahian model provides that its Ombudsman has as its mandate to bring issues of concern to the attention of State authorities. The Special Rapporteur observed that the model was effective, in that community members felt trust in the Ombudsman who, being elected by them, was genuinely representative of their interests and understood their concerns. However, the office was severely underresourced for dealing with the considerable workload it faced, and experienced significant pressure to meet the expectations of civil society in fulfilling its mandate. The Bahia State Secretariat for Human Rights has also established the Nelson Mandela Referral Centre to Combat Racism and Religious Intolerance. The centres operate as a platform and bring together a range of actors to provide legal and psychosocial support for minorities facing discrimination or abuse.

39. The private sector also plays a role in supporting minorities, in particular through the S-System, a system of social contributions paid by companies in order to finance autonomous social services, which supports the development of community spaces and programmes for marginalized communities.

40. Brazil has also taken some important steps to strengthen institutional mechanisms for Roma. The Secretariat for Policies for the Promotion of Racial Equality has developed an interministerial working group on Roma, and Roma are also to be included in the next multi-year plan (2016-2019). The National Human Rights Programme (NHRP-3), established by Decree 7031 of 2009, included the provision that the States "ensure the conditions for Gypsy camps throughout the national territory in order to preserve their traditions, practices and cultural heritage." (guideline 7, strategic goal III, para. (k)). Outreach is being undertaken to better integrate Roma into the Single Registry System, which provides access to social benefits. Additionally, in recent years, Roma representatives have been included in the National Council for Racial Equality Policies, and the National Commission for the Sustainable Development of Traditional Communities. On February 8, 2014, a Gypsy working group, whose members included Roma representatives, was established within the Department of Literacy, Continuing Education, Diversity and Inclusion at the Ministry of Education. The working group launched the publication "Gypsies – Guidance Document for the Teaching System", which contains a series of recommendations for educators on expanding Roma access to education. The Secretariat for Policies for Women has also convened the First National Meeting of Roma Women, and committed to supporting the participation of five Roma women in the Fourth National Conference on Policies for Women, to be held in March 2016.

41. The Special Rapporteur acknowledges the overall significant economic progress made by Brazil in recent decades. With an estimated 25 million people brought out of extreme poverty in the last decade, Brazil has largely met the Millennium Development Goals. Noteworthy programmes in this regard have included the cash transfer programmes, *Minha Casa, Minha Vida* and *Bolsa Familia*, whereby beneficiaries commit to a series of conditions aimed at guaranteeing the well-being and health of the family. Brazil has also raised the minimum wage from $70 to $400 over the course of several years. While these achievements have certainly assisted many minority communities, inequality, in particular for Afro-Brazilians and other minorities, has remained.

42. Finally, Brazil committed in its universal periodic review to the establishment of a national human rights institution.[2] In June 2014, Congress passed Law 12.986, which transformed the Council for the Defence of Human Rights (*Conselho de Defesa dos Direitos da Pessoa Humana)* into the National Human Rights Council (*Conselho Nacional de Direitos Humanos*). With a more participative structure and a clearer role for civil society, the new body also has a stronger institutional mandate to promote and protect human rights. Concern remains however, that the legislation does not go far enough to ensure that the new Council is fully independent of the executive functions of government.

D. Data collection and affirmative action policies

43. Brazil has a commendable practice of collecting socioeconomic data disaggregated by race. Data collection plays a vital role in revealing inequalities between groups in society and informs appropriate action to address them.

44. In this connection, Brazil has been a regional leader in the development of affirmative action policies. Decree 4886 (2003) and Quota Law 12711 (2012) established quotas of 20 per cent for Afro-Brazilians in various public institutions and universities. Importantly, in April 2012 the Supreme Court unanimously ruled the use of racial quotas in

[2] See A/HRC/21/11, recommendation 119.19.

education to be constitutional. Quotas are now established by individual universities on the basis of State Law and demographics.[3]

45. There are also specific government-led affirmative action initiatives to increase the representation of Afro-Brazilians. Law 12990 of 2014 established an affirmative action programme for federal civil servant positions countrywide, reserving 20 per cent of these positions for Brazilian *negros* (blacks) and *pardos* (mixed race). This also applies to public companies controlled by the federal government. It is notable that some Brazilian states, such as Mato Grosso, Paraná, Rio de Janeiro, and Rio Grande do Sul, and cities including São Paulo, have enacted similar affirmative action policies for their civil servants.

46. The quota system, however, has some shortcomings. It does not apply to the legislative and judicial branches and also excludes "positions of trust", which are often the decision-making posts. Thus, in the judiciary, only 15.7 per cent of judges are Afro-Brazilians and Afro-Brazilians hold fewer than 10 per cent of posts in higher courts.[4] There are currently no Afro-Brazilians judges on the Supreme Court. In Bahia, where 76.3 per cent of the population identify as Afro-Brazilian, of 470 prosecutors in 2013, only 9 were Afro-Brazilian.[10]

47. The Special Rapporteur also observes that federal parliamentary quotas have been rejected. This has translated to low levels of Afro-Brazilian political representation. At the time of the visit, self-identified Afro-Brazilian descendants occupied only 8.5 per cent of the seats in the *Câmara* (House). The 81-seat Senate had only one Afro-Brazilian member. There is presently only one Afro-Brazilian minister.

48. It should also be noted that, although quotas are not applicable to the private sector, the Secretariat for Policies for the Promotion of Racial Equality has been working on a voluntary programme with specific companies, and publicly recognizes good practices in this regard.

V. Principal human rights concerns facing Afro-Brazilian communities

49. Brazil undoubtedly has, at both the federal and state levels, numerous laws, policies and programmes aimed at addressing the situation of Afro-Brazilians. Nevertheless, sharp inequalities remain for Afro-Brazilians across the full spectrum of human rights. While it is beyond the scope of the present report to analyse all the human rights concerns facing Afro-Brazilians, the Special Rapporteur highlights some of the principal violations she observed.

A. Violence

50. The Special Rapporteur was shocked to learn about the levels of violence in Brazil. Regrettably this violence has a clear racial dimension. Of the 56,000 homicides that occur each year, 30,000 victims are between 15 and 29 years old, of which 77 per cent are Afro-Brazilian male youth.[5] What is disconcerting is that a significant number are perpetrated by the State, often through the apparatus of the military police. Research reveals that the number of Afro-Brazilians who have died as the result of police actions in the state of São Paulo is three times greater than that registered for the white population. In Rio de Janeiro,

[3] The Committee on the Elimination of Racial Equality has noted that such policies play an important role in achieving the objective of eliminating racial discrimination (see general comment No. 32).

[4] See www.cnj.jus.br/images/dpj/CensoJudiciario.final.pdf.

[5] See https://anistia.org.br/campanhas/jovemnegrovivo/.

in 2013, nearly 80 per cent of the victims of homicides resulting from police interventions were Afro-Brazilian, of whom 75 per cent were youth between 15 and 29 years of age.[6] In addition to the killings committed by police on duty, it is believed that a large number of deaths are also caused by so-called death squads and militias made up primarily of civil and military police and other agents of the State (see A/HRC/11/2/Add.2).

51. The Special Rapporteur further observes that, compounding the violence itself, is the widespread impunity surrounding such crimes. Police officers are seldom brought to justice and the vast majority of the victims do not obtain any kind of reparation. For example, a recent review of 220 investigations of police killings opened in 2011 in the city of Rio de Janeiro found that, after four years, only one police officer had been charged.[7] Given the widespread nature of the impunity, witnesses of police killings rarely go to the police to testify for fear of retaliation. This is compounded by deficiencies in witness-protection programmes and a lack of protection for human rights defenders. As a result of the high death rate, and the ensuing impunity, social movements have labelled the situation a "genocide of black youth".

52. One of the instruments enabling these homicides and the surrounding impunity is the so-called "resistance followed by death" (*autos de resistência*). A remnant of the military dictatorship, this mechanism essentially operates to legitimize homicides by police on the grounds of self-defence and in practice operates to create a shield of impunity for police officers. Draft Bill 4471 of 2012 is currently pending before Congress and is aimed at eliminating this by establishing procedures for the preservation of crime scenes and for better investigation at the federal level. The Special Rapporteur strongly believes that the passage of the Bill into law would mark a significant turning point in addressing the abuse of police power. This has already been evidenced in Rio de Janiero, where a resolution by the State Civil Police to stop applying the *autos de resistência* mechanism has allegedly had a positive impact in reducing the number of police homicides. However, she observes that abolishing this mechanism must be accompanied by other measures, including the restructuring of the police force, in particular the abolition of the military police, and the strengthening of the independent police ombudsman. The Special Rapporteur further notes that, on 4 January 2016, the Superior Council of Civil Police Chiefs issued a joint resolution abolishing the use of the term *auto de resistência*, with a view to guaranteeing that homicides committed by security agents are duly investigated. It is hoped that this resolution will indeed contribute towards the passing of draft bill 4471.

B. Criminalization of Afro-Brazilians

53. The Special Rapporteur is also concerned about the criminalization of Afro-Brazilians. It is estimated that 75 per cent of the Brazilian prison population is Afro-Brazilian (see A/HRC/27/68/Add.1, para. 68). Studies also reveal that, if charged, Afro-Brazilians are disproportionately subject to imprisonment and are more likely to be kept in prison and deprived of alternative options.[8]

54. This inequality is sustained by the approach to policing, with reports indicating that Afro-Brazilians are more often stopped by the police. In this context the Special Rapporteur is also concerned about the consequences of the so-called "war on drugs" which is an important factor in the criminalization of Afro-Brazilians. The ambiguities of the current

[6] "You Killed My Son", Amnesty International, 2015.

[7] Ibid.

[8] Relatório de Aplicação de Penas Alternativas do IPEA, Available from www.ipea.gov.br/portal/images/stories/PDFs/relatoriopesquisa/150325_relatorio_aplicacao_penas.pdf.

drug legislation enable police to discriminate against and criminalize people with a certain ethno-social profile. Afro-Brazilians found in possession of drugs are often charged with the more serious crime of trafficking, while their white counterparts may be charged with possession, or simply given a warning. Prison statistics attest to this reality. Since 2005, the year before the Drug Law (11.343/2006) was passed, the number of people jailed for drug-related offences increased by 344.8 per cent. Indeed, 63 per cent of women and 25 per cent of men in prison today are there because of drug-related crimes.[9] Given the high proportion of Afro-Brazilians incarcerated, the nexus is clear. In this context, the Special Rapporteur welcomes the fact that article 28 of the Drug Law is currently under consideration by the Supreme Court, which may result in the decriminalization of drugs possession for personal use.

55. The Special Rapporteur is alarmed at the proposed constitutional amendment currently pending in Congress to lower the age of criminal responsibility from 18 to 16 years of age. The Special Rapporteur notes that, should the bill be passed into law, it will not only contravene the recommendations of the Committee on the Rights of the Child, but will also have immediate impacts on Afro-Brazilian youth, and perpetuate the criminalization of Afro-Brazilian community.

56. Communities also voiced their concerns about the portrayal of Afro-Brazilians as criminals in the media, which also serves to justify the use of lethal force for alleged involvement in criminal gangs. Concerns were also raised about the concentration of mainstream media in the hands of few, and that Afro-Brazilian journalists are rarely able to penetrate these monopolies to provide alternative narratives to the dominant discourse.

C. Social and economic conditions

57. Regrettably, poverty in Brazil continues to have a colour. Of the 16.2 million people living in extreme poverty, 70.8 per cent are Afro-Brazilian.[10] The average wages for Afro-Brazilian Brazilians are 2.4 times lower than those earned by citizens of white and Asian origin. Of the illiterate, 80 per cent are Afro-Brazilians, and 64 per cent of Afro-Brazilians have not completed basic education. The Special Rapporteur also notes the situation of extreme disadvantage experienced in *favela* and *periferia* communities, which are often dominated by Afro-Brazilians. For youth in such neighbourhoods, limited access to quality education, a lack of community and leisure spaces, high rates of school dropout and of crime mean that youth have few ambitions or life perspectives. Living on the margins of society, residents reported that they felt that their communities were forgotten and being completely left behind.

58. In *favela* Santa Marta the Special Rapporteur observed the impact of the presence of Police Pacification Police Units (UPPs), public security initiatives deployed to take back control of areas from criminal gangs. The presence of the Units has contributed to reducing certain crime rates. Yet the Special Rapporteur was concerned at the fact that the Units were the sole government initiative in the *favela*. The Units, while remaining heavily armed and continuing to carry out policing functions, also administer social services and educational programmes. As police agents of the State, the Units are not well placed, nor adequately trained, to carry out such social functions. The Special Rapporteur warns that, as the number of Units increases across Brazil, this may contribute to the further militarization of *favela*-dwellers lives. The establishment of Units must therefore be counterbalanced by

[9] See www.cnj.jus.br/files/conteudo/arquivo/2015/11/080f04f01d5b0efebfbcf06d050dca34.pdf.

[10] *Síntese dos Indicadores Sociais – Uma Análise das Condições de Vida da População Brasileira 2010* (Instituto Brasiliero de Geografia e Esttastica, Rio de Janeiro, 2010).

equal investment in community-run initiatives, as well as other social programmes designed and developed with the participation of community members.

D. Afro-Brazilian women

59. Afro-Brazilian women are often in exacerbated situations of marginalization and disadvantage. A recent study revealed that Afro-Brazilians women and girls are more likely to be victims of violence: in 2013, 66.7 per cent more Afro-Brazilian women were killed than white women and girls.[11] Afro-Brazilian women are also overrepresented in low-skilled jobs, such as domestic work, and there are few Afro-Brazilian women in positions of power. In addition, Afro-Brazilian women are highly overrepresented in prison populations, compared with their white counterparts. In connection with the "war on drugs", between 2005 and 2013, the number of women imprisoned for drug-related crimes grew 290 per cent,[12] with the impact on Afro-Brazilian women considerable. The large numbers of Afro-Brazilians male homicides have a significant impact on Afro-Brazilian women, as the mothers, wives and sisters of these slain youths, and who are not provided with any psychosocial support or redress.

60. Afro-Brazilian women and girls are particularly vulnerable to violence, including sexual violence and domestic violence, in particular in marginalized communities such as *favelas* and *periferias*. Indeed, in *periferia* Brasilandia, girls as young as 10 and 11 told the Special Rapporteur that they were forbidden from leaving their houses after school for fear of being raped, a regular occurrence in the neighbourhood. In these communities, as well as elsewhere, the school dropout rate for Afro-Brazilian girls is high, as they are often obligated to take up household duties, including the care of younger siblings. Similarly, teenage pregnancy rates remain high, particularly in poorer areas. The maternal mortality rates for Afro-Brazilian women remain comparatively high (see A/HRC/27/68/Add.1, para. 86).

VI. The rights of Quilombo and other traditional communities

61. Quilombos and traditional communities find themselves amongst the most socially and economically excluded peoples, even in relation to other Afro-Brazilian communities. These communities not only suffer the severe problems of racism, structural discrimination, and violence, but also face additional discrimination as poor, peripheral and often rural communities. This vulnerability has severely impeded their ability to make effective rights claims regarding their lands and resources.

A. Demarcation of Quilombo lands

62. Although constitutional recognition was an important symbolic step towards recognizing the rights of Quilombos, almost 20 years later, the pledge remains largely unfulfilled. To date, only 189 deeds have been issued, corresponding to 0.1 per cent of the national territory. While there are currently 1,516 open processes for demarcation, it is estimated that more than 3,000 Quilombos exist throughout Brazil. Moreover, the cumbersome and somewhat technical procedures mean that, even for those recognized communities, demarcation regularly takes up to six years. Even when a positive decision is

[11] See www.mapadaviolencia.org.br/pdf2015/MapaViolencia_2015_mulheres.pdf.

[12] Ministerio de Justicia, INFOPEN 2014, available from: www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf.

made by the National Institute for Colonization and Agrarian Reform to demarcate lands, legal challenges filed against decisions result in cases often being stalled before the courts for up to 15 years. At the current pace, it is estimated that it would take 250 years to fully demarcate all officially recognized Quilombola lands.

63. Without clear, formal, title to land, thousands of Quilombo communities must continue to struggle for economic, social, and political viability. The National Institute for Colonization and Agrarian Reform reported that the increasing economic importance of land in Brazil, including for agribusiness, biofuel production and extractive industries, has put additional pressure on the Quilombo demarcation process.

64. Regrettably, the Special Rapporteur learned that the constitutionality of the Presidential decree regarding Quilombola demarcation has been challenged. Should the decree be held by the Supreme Court to be unconstitutional, there is a serious danger that all progress made in recognition of Quilombo lands will be undone. Of further concern is Constitutional Amendment Proposal 215/200, which, if approved, would accord the National Congress the power to demarcate and ratify Quilombola and indigenous lands. This would undoubtedly further burden communities seeking title to lands.

B. Free prior and informed consent

65. Free prior and informed consent is also a central principle in the protection of Quilombola and other traditional communities as they seek to maintain control of their lands under pressure from State and private actors.[13] The Special Rapporteur has learned of the repeated failure to implement this right with regard to development projects taking place on the lands of these communities, with grave consequences for communities and traditional livelihoods.

66. In Quilombo Ilha da Maré, a traditional fishing Quilombo in Bahia, development projects have been undertaken on Quilombo lands without the consent of the community. Authorized through environmental impact assessments that were allegedly insufficient, the projects have led to the poisoning of lands and waters, and the concentration of heavy metals in water and soil. This has resulted in high rates of cancer in the community, including numerous deaths of young children from heavy metal poisoning. Furthermore, owing to the influx of workers, Quilombola women have become particularly vulnerable to sexual and gender-based violence.

67. Of further concern is the grave situation in Quilombo Dos Macacos, in the greater metropolitan area of Salvador, where the installation of a Navy base on the traditional lands of the community has effectively partitioned the lands, and the Navy keeps record of families and their members, as well as relatives and guests as regular visitors. Members allegedly face abuse and violence, including torture and sexual violence against women perpetrated by members of the Navy.

68. In Dos Palmares Quilombo, although the local Quilombo community had successfully claimed title to their lands, a prison placed near the community without their consent has brought negative social and environmental impacts, with sewage from the prison polluting the river, a key water source and source of livelihood for the community. Furthermore, plans for a railway line which will directly cut through the community was

[13] The applicability of free prior and informed consent to Quilombos was noted by the ILO Committee of Experts on the Application of Conventions: see www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:2700476.

presented to the community as a *fait accompli*, with a compensation package that was not negotiated with their participation.

69. The various Quilombo communities in the Vale do Ribiera region of Sao Paolo and neighbouring Paraná State, important regions for agribusinesses, reported the presence of various projects on their lands, including pine plantations, mining and dams and other extractive industries, all without respect for the principle of free prior and informed consent. The Special Rapporteur is additionally concerned that environmental justifications have also been used in this region, infringing Quilombo rights to lands and territories. For example, some Quilombos in the Vale do Ribiera region have had their traditional lands usurped by State parks, leading to a situation where communities are physically divided, and are forbidden even from crossing the parks to access their own lands. Moreover, Quilombolas have not been given any role to participate in the management of the parks, through the provision of jobs or conservation efforts. The Special Rapporteur notes that allowing Quilombos whose traditional territories may now constitute national parks to use parts of those parklands for traditional cultivation purposes or subsistence farming, or to enter or to access other parts of their territories, should not be considered as being in conflict with environmental priorities.

70. Although ILO Convention No. 169 should be applied on an equal basis to traditional communities, the Special Rapporteur also observed that it is seldom properly implemented for those peoples who often reside in remote impoverished areas, who largely sustain themselves through communal subsistence activities, and who remain some of the more invisible and marginalized minorities in Brazil.

71. For example in the State of Norte de Minas, *Gerazeiros* communities, who have already experienced the negative impacts of decades of commercial eucalyptus cultivation, which destroyed much of their lands, are now being threatened by a mining project of the Sul America de Metais. The project would involve the exploitation of low-grade iron in open air mines, along with the construction of a pipeline. Although the project is only at the initial licensing phase, *Gerazeiros* communities that live in the region of Grão Mogol, Padre Carvalho and Josenópolis, in addition to others that live in the path of the pipeline, have not been adequately consulted. Allegedly, public hearings were held to discuss the licensing process and the environmental impact assessment, without giving communities adequate notice to prepare their participation. Their request to delay the hearing was denied and at a second public hearing many traditional peoples were subjected to intimidation when they attempted to raise their concerns. Moreover, the National Agency for Water has already granted the company authorization to use 6,200m3/hour of the waters from the nearby Irapé damn, without an environmental impact study or any community participation. This will allegedly aggravate the existing water shortage in the region and have serious impacts on the traditional livelihoods of the *Gerazeiros*.

72. *Pantaneiros* communities, who reside in the wetlands and engage in subsistence activities of fishing, small-scale communal agriculture and pastoralism with collective livestock, have also been impacted by large-scale monoculture soy production on their traditional territories. The communities observe that these projects have disrupted their pastoral corridors and that toxic chemicals used for the cultivation of the monocrops flow off into their lands and water resources, poisoning other arable lands and destroying water resources. The *Pantaneiros* communities have also observed new prospecting for calcium and iron mining taking place again without their consent.

73. Decree 6040 recognizes the importance of land and territory for the survival and culture of traditional communities. However, as they are not afforded the same legal rights to demarcation compared with indigenous peoples or Quilombo communities, the Special Rapporteur fears that traditional communities are often overlooked in the pursuit of the economic and developmental policies and objectives of Brazil, which have generally

favoured large-scale development projects, including extractive industries, agribusiness and infrastructure projects.

C. Social services including education

74. Quilombos and traditional communities are also often lacking access to basic services, such as education, access to health services, sanitation and basic infrastructure, including roads, transport and communication services. The Special Rapporteur learned that, in some cases, a Quilombo child will need to walk 5-6 kilometres just to reach the bus stop to travel to school each day, in order then to travel one hour to school, where she or he will be unable to perform well because of constant fatigue. In another Quilombo visited, students are only provided two hours of class per day, even for pupils up to 15 years of age Few Quilombos have local schools with teachers from their communities. In view of this, the Special Rapporteur notes that, even if affirmative action programmes exist, if Afro-Brazilians, including Quilombolas, are unable to better access quality basic education, these programmes will remain powerless to address inequalities.

VII. Roma

75. Roma have been present in Brazil since colonization of the territory, with the first record dating back to 1574 and have continued to migrate to Brazil for diverse reasons; sometimes fleeing persecution in Europe, sometimes seeking new horizons.

76. Three main Roma ethnic groups reside in the country: Kalon, Roma and Sinti, with various subgroups. Although precise numbers are still not available, the Government estimates that there may be upwards of 500,000 Brazilian Roma,[14] and a recent mapping project indicates that Roma may be present in as many as 337 municipalities, in more than 21 states, 196 of which already participating in social programmes. The states with the largest number of recognized *Cigano* camps include Minas Gerais (58), Bahia (53) and Goiás (38). The Special Rapporteur learned that, in reality, there are nowadays very few Roma communities which travel.

77. Despite the lack of data, Roma continue to be a disadvantaged, socially excluded, and largely invisible minority in Brazil. They face particular challenges with regards to accessing education, employment, health, housing and social security. Illiteracy is high, and access to public health services, education, social security, employment and housing can also be challenging, often hindered by stigmatization, institutional racism and discrimination. Early marriage remains prevalent for girls, and Roma also experience difficulties regarding the protection and preservation of their traditions and cultural heritage.

78. Stereotypes such as the "lazy gypsy" remain widespread, and Roma are often characterized as vagabonds and perpetrators of kidnapping, stealing, cheating, sorcery and witchcraft. Roma complained that these stereotypes are perpetuated by the mainstream media, including a recent soap opera in which Roma were negatively portrayed as stealing gold from dead bodies and looting graveyards. In this connection, Roma consulted reported experiencing direct discrimination on account of their ethnicity, including not being welcomed in hotels, or on public transport, or people fearing to approach, talk to or befriend them.

[14] See www.seppir.gov.br/comunidades-tradicionais/relatorio-executivo-brasil-cigano-1.

79. The Special Rapporteur notes that, until recently, the existence of Roma as an ethnic minority within Brazil has been largely ignored, and knowledge about Roma as a long-standing Brazilian minority has been limited. Regrettably, this invisibility has served to compound their marginalization, as evidenced by the lack of official programmes, policies or projects dedicated to tackle their specific challenges. In recent years, however, the Government has begun to rectify this gap (see para. 39 above). The Special Rapporteur commends the Government on its commitment to include Roma as a demographic category in the next census, to be held in 2020, which will be an important tool to better map the Roma population in Brazil. The Special Rapporteur notes, however, that the inclusion of Roma as a census identity without combating the discrimination they face may not be sufficient, as individuals may be reluctant to identify as Roma because of the associated discrimination and social stigma. The Special Rapporteur further notes that the centuries of exclusion have created a distrust of the Government, and much work is needed to build confidence between Roma communities and the authorities.

VIII. Religious minorities

80. Representatives of religious communities consistently emphasized the generally harmonious relations with the majority population, and widespread religious tolerance. Muslim and other religious minorities reported positive experiences with regard to religious freedoms, and did not report systematic intolerance or hate acts.

81. One exception however is the treatment of Afro-religious communities, including Candomblé and Umbanda.[15] The Special Rapporteur is seriously disturbed by increasing reports of harassment, intimidation, hate speech and even acts of violence against individual members of Afro-religions. She learned about vandalism of places of worship, including the burning of temples and the desecration of Afro-religious symbols. Just during her two-week visit, two Candomblé temples were burned in the Federal District. Indeed, the Nelson Mandela Centre in Bahia reported that approximately one third of all complaints received pertain to intolerance against Afro-Religions.

82. Members of Afro-religions also experience discrimination and are targeted as a result of traditional dress, beads or symbols, which are often banned from the workplace (although other religious symbols such as crucifixes are not). *Terreiro* women domestic workers reported not being allowed to wear traditional clothes or religious symbols in their workplaces. There are also allegations of discrimination against children for wearing traditional dress in schools. Afro-religious leaders also reported being banned from performing symbolic rituals in hospitals for members of their faith.

83. Afro-religious practitioners perceive that the rise of Evangelicalism has impacted on their religious freedoms. Many *Terreiro* adherents report being harassed by Evangelicals, including through aggressive conversion efforts such as the distribution of or pasting of pamphlets in their *Terreiros*. The strong media ownership concentrated in the hands of Evangelicals has also been criticized as a way in which negative stereotypes of Afro-religions are disseminated. Such stereotypes include depictions of Afro-religions as devil worshippers, as those who practise voodoo, satanic rituals and black magic. It was also reported that some Evangelical groups had attempted to pass a bill criminalizing animal sacrifice, with the sole intent of criminalizing Afro-religious practices.

[15] See A/HRC/17/38/Add.1, paras. 79-81 and A/HRC/27/68/Add.1, paras. 99-101.

84. Concerns were raised that Afro-religions are not given equal protection as religions,[16] but rather considered as folklore or as a mere cultural manifestation. In this regard, it was noted that Afro-religious titles are not officially recognized on formal documents. Moreover, practitioners also expressed concern that many of their specific religious practices and symbols are appropriated without consent, in a perceived attempt to transform and dilute Afro-religious traditions and culture. In Bahia, certain Afro-religious traditions have been reproduced as cultural artefacts for tourism, without the consent of the communities.

85. The Special Rapporteur is also concerned that community members report widespread impunity surrounding attacks on their person, places of worship, or instances of discrimination, including against children in schools. Lack of responsiveness to complaints filed, or failure to investigate allegations, further contributes to a sense of marginalization and discrimination on the part of the communities. Moreover, the lack of accountability and trust in law-enforcement services has meant that followers of Afro-religions report feeling unsafe in their neighbourhoods and cities. The Special Rapporteur notes the need for police and judicial training in order to better ensure that the rights of *Terreiros* and their followers are protected.

86. The Special Rapporteur was pleased to learn that an interministerial working group on religious bigotry is being established under the Ministry of Justice. However, to date, no meeting has been convened. The Special Rapporteur notes that it is important that this body addresses the allegations of violence against members of Afro-religions and places of worship, and establishes tools to ensure that the perpetrators of such actions are held to account. However, it is equally important that it addresses the indirect discrimination, including through recognition and ensuring protection adequately and on an equal basis with other religions.

87. Finally, the Special Rapporteur observed that the increasing dominance of certain religious groups and their concentration in power may have a serious negative impact on the secularist nature of the Brazilian State. In this connection, the Rapporteur is concerned by proposed constitutional amendment No. 99 (PEC 99), which would give religious associations the capacity to challenge the constitutionality of laws and to propose constitutional amendments.

IX. Conclusions and recommendations

A. Conclusions

88. **Significant progress has been made on the policy and legislative level to combat the structural racism which continues to dominate Brazilian society. Indeed, given that many of these initiatives have been adopted only in the past decade, the Special Rapporteur commends Brazil on the steps it has taken to face its 500-year legacy of slavery, racism and injustice against minority groups, including Afro-Brazilians.**

89. **However with regard to Afro-Brazilians, despite more than two decades of targeted policies and actions designed to advance their rights, there has been a failure to address the entrenched discrimination, exclusion, and poverty faced by these communities, particularly those living in *favelas*, *periferias*, and *Quilombos*, as well as**

[16] Recently a Federal Court did consider that African-Brazilian religions should be afforded the protection of freedom of religion, as they cannot be considered a true religion. (Ação Civil Pública, Processo No. 0004747-33.2014.4).

other traditional communities. The statistical data reveals the disproportionate poverty and poor social and economic conditions experienced by many Afro-Brazilians. In key areas such as education, employment, health care and housing, Afro-Brazilians remain at the bottom of the socioeconomic ladder.

90. Racism and structural discrimination have a significant impact on the lives and opportunities available to Afro-Brazilians. They are a cause of marginalization and poverty and are directly linked to vulnerability and violence. While Brazilian society faces extraordinarily high levels of violence, regrettably this violence also has a clear racial dimension. Of further concern is that many deaths are perpetrated by arms of the State, including the military police, often with complete impunity.

91. In this connection, the Special Rapporteur also remains concerned about the increasing criminalization of Afro-Brazilians, as evidenced by their disproportionately high incarceration rates. This has been compounded by the "war on drugs", which has led to a sharp rise in the incarceration of Afro-Brazilians, and the mainstream media, which present stereotypical images of Afro-Brazilians, often in connection with crime.

92. Significant efforts are also needed to ensure that Quilombo communities are able to have their lands demarcated, in accordance with the constitution. Furthermore, there is an apparent lack of full harmonization of the Government's priorities for economic development with its commitments to the rights of Quilombo communities as well as other traditional peoples. This problem is manifested by the absence of adequate prior consultation and lack of implementation of the principle of free prior and informed consent in the planning and execution of major development projects such as dams, infrastructure projects, agribusiness crop production and natural resource extraction activities on the lands of these traditional communities.

93. With regard to religious minorities, Brazil remains a diverse society with a high degree of religious tolerance. One exception, however, are the reports of growing numbers of attacks against religious communities of African origin, such as *Candomblé* and *Umbanda*. Incidents include the burning of temples, the desecration of Afro-religious symbols, and discrimination against peoples wearing traditional Afro-religious dress, including children in schools. Further efforts are needed to combat this phenomenon, and to ensure that Afro-religions are recognized and respected.

94. The Special Rapporteur also acknowledges the new and important work being done on Roma. While many of these initiatives are nascent, the Government should strengthen and ensure the participation of Roma in the development of laws and policies affecting them in order to best respond to their needs.

B. Recommendations

1. Normative and institutional framework for the protection of the human rights of minorities

95. The Special Rapporteur emphasizes that Brazil has been at the forefront with its poverty reduction efforts and targeted anti-discrimination and affirmative action laws and policies, and urges that these should be continued and further strengthened. However, she observes that, at the current political juncture, there are a number of legal and political challenges to important laws and policies that pose a real risk of undermining the progress made in the field of minority rights. The Special Rapporteur urges that all steps be taken to avoid any regression in these areas, in accordance with due process of law.

96. **Following the merger of the Secretariats for Policies for the Promotion of Racial Equality, for Human Rights and for Policies involving Women's Rights in October 2015, the Special Rapporteur recommends that the merger does not lead to a reduction in function, budget, level of decision-making authority or programming capacity for these Secretariats. To the contrary, the new Ministry must be further empowered to ensure that minority rights remain a priority, not only within the Ministry, but throughout all levels of Government.**

97. **Positive initiatives, such as those in Bahia by the Public Ombudsman and the Nelson Mandela Centres should be fully resourced, and considered as good models for other states to replicate.**

98. **The Government of Brazil should also ensure that its national human rights institution is compliant with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), ensuring that it is both functionally and financially independent of government, and vested with the authority to investigate all issues relating to human rights, including those of minorities. This could be further enhanced by establishing a unit for minority rights, and through including dedicated training on minority rights for authorities, including for public officials, police forces, and judicial authorities.**

99. **Brazil should take swift action to submit its overdue combined eighteenth to twentieth periodic report to the Committee on the Elimination of Racial Discrimination, which was due on 4 November 2008.**

2. The situation of Afro-Brazilians

100. **The Government must better respond to the homicide crisis which is claiming a large number of Afro-Brazilian lives. Proper investigation must be carried out regarding cases of police violence, and all perpetrators must be brought to justice.**

101. **The Special Rapporteur noted an overall need for more and improved investment in community-led spaces and services in marginalized Afro-Brazilian neighbourhoods, as community-driven prevention mechanisms.**

102. **The Special Rapporteur would welcome the passage of Bill No. 4471 of 2012, which abolishes "resistance or arrest followed by death" and similar mechanisms (*auto de resistência*) as an important development to address the abuse of police power and impunity. However, she observes that this must be accompanied by other measures, including the restructuring of the police force, and in particular the abolition of the military police and the strengthening of the independent police ombudsman so that police can be held accountable.**

103. **Efforts must also be made to combat the criminalization of Afro-Brazilians, including re-examining the "war on drugs". The proposed constitutional amendment to lower the age of criminal responsibility of children to 16 years of age instead of 18 should be rejected, as it will further negatively impact Afro-Brazilian youth and contravenes the recommendations of the Committee on the Rights of the Child.**

104. **While affirmative action measures already taken are significant, concrete and robust, measures must be taken to continue to address the underrepresentation of Afro-Brazilians in political structures, State institutions and decision-making bodies at all levels. In this connection, the Special Rapporteur draws attention to the recommendations of the Forum on Minority Issues on minorities and effective political participation (see A/HRC/13/25) and urges their appropriate implementation.**

105. **In order to strengthen affirmative action policies, further efforts should be made to improve the quality and availability of education for minority youth, in**

particular in impoverished and rural settings, including in favelas, periferias, Quilombos and traditional communities. Efforts should be made to better implement law 10369 of 2003, as well as to strengthen the participation of minority communities in educational programming.

106. The Government should capitalize on the International Decade for People of African Descent (2015-2024) to strengthen and rigorously enforce the legal and administrative avenues currently in place to protect and promote the rights of Afro-Brazilians.

3. Quilombo and traditional communities

107. Regarding demarcation of traditional lands, more streamlined and efficient processes which better involve communities and ensure speedy appellate procedures will be necessary to meet the promise of the 1988 constitution.

108. Measures should be taken to improve the capacity of the National Institute for Colonization and Agrarian Reform and other relevant institutions to deal with conflicting interests in relation to Quilombo land and resources, and to work with state and local governments to implement such mechanisms and ensure that communities are protected from discrimination when trying to enforce their rights.

109. The right to free, prior and informed consent must be respected and enforced in relation to all decisions affecting Quilombo and other traditional communities. All public institutions, at both the federal and state levels, should be aware of and implement the relevant provisions of ILO Convention No. 169 and other applicable international instruments.

110. Quilombos are also often lacking access to basic services, such as education, access to health services and sanitation. The Government should maintain and increase its attention to these areas, as well as improve infrastructure, roads and access.

4. Afro-Brazilian religions

111. The freedoms accorded to traditional religious groups must be extended to all religious groups, including Afro-Brazilian religions, which must be treated not simply as folklore but recognized and protected by law and public policies as religions, on an equal basis with other religions.

112. Legislation must be enacted in order to ensure that Afro-religious *Terreiros* receive the same protection as other religious temples, taking into account their particularities.

113. Swift action must be taken against any incident of religious intolerance against Afro-religions, and the perpetrators of violence must be held directly accountable.

5. The rights of Roma

114. Concerted efforts need to be made to raise awareness about the existence of and the rights of Brazilian Roma, in order to change entrenched discriminatory attitudes and foster a sense of understanding and respect, and to protect and promote their distinct identity.

115. The Government is therefore encouraged to swiftly pass the bill on Roma and take all further steps to engage with the community; including through the further development of dedicated policies and programmes as well as ensuring their inclusion

in and access to existing initiatives, including but not limited to the areas of education, health care, employment and housing.

116. **The Government is also urged to constructively engage with Roma communities in order to allow them to communicate their concerns, and ensure that solutions are developed and that any decisions affecting them are made on the basis of participation and dialogue.**

6. Cross-cutting concerns

117. **Brazil has a commendable practice of collecting socioeconomic data disaggregated by race. Data collection plays a vital role in revealing inequalities between groups in society and informs appropriate actions to address them. This practice should be continued.**

118. **Brazil should consider establishing an independent media observatory to counterbalance concerns about the lack of positive representations of minorities in the media. Such an observatory should monitor the presence of negative stereotypes, criminalization and hate speech, in relation to minorities in the media, and provide avenues for participation for minority journalists within mainstream media outlets.**

119. **Brazil should provide technical and financial support to minority-led organizations and civil society organizations that offer services and support to minorities.**

120. **Brazil should establish local independent complaint mechanisms that are linked to a national body. This would ensure that all human rights violations can be immediately reported to a trusted body, and data on complaints centrally collected.**

121. **Particular attention should also be paid to multiple forms of discrimination, including for minority women, lesbian, gay, bisexual, transgender and intersex individuals and communities and youth.**

7. To the United Nations country team

122. **The United Nations country team should ensure that the specific needs of minorities are incorporated into its programming, including promoting concerted efforts for the implementation of the plan for the International Decade for People of African Descent by all United Nations agencies. In so doing, priority should be given to minority staff, including Afro-Brazilians, among others.**